United Nations A/68/141

General Assembly

Distr.: General
20 May 2013

Original: English

Sixty-eighth session

Request for the inclusion of an item in the provisional agenda of the sixty-eighth session

Observer status for the International Institute for the Unification of Private Law in the General Assembly

Letter dated 15 May 2013 from the Permanent Representative of Italy to the United Nations addressed to the Secretary-General

Pursuant to rule 13 of the rules of procedure of the General Assembly, I have the honour to request the inclusion in the provisional agenda of the sixty-eighth session of the Assembly of an item entitled "Observer status for the International Institute for the Unification of Private Law in the General Assembly".

In accordance with rule 20 of the rules of procedure of the General Assembly, I attach an explanatory memorandum (see annex I) and a draft resolution (see annex II).

I should be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly.

(*Signed*) Cesare Maria **Ragaglini**
Ambassador
Permanent Representative of Italy to the United Nations

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Annex I

Explanatory memorandum

1. The International Institute for the Unification of Private Law fulfils the legal criteria for observer status in the General Assembly

In its decision 49/426 of 9 December 1994, adopted without a vote, the General Assembly, on the recommendation of the Sixth Committee, and taking note of the oral report presented to the Sixth Committee on 25 November 1994 by the Chair of the Working Group on the question of criteria for the granting of observer status in the Assembly, decided that the granting of observer status in the Assembly should in future be confined to States and to those intergovernmental organizations whose activities cover matters of interest to the Assembly.

The International Institute for the Unification of Private Law (UNIDROIT) is an independent intergovernmental organization with its seat in Rome. The Institute was originally set up in 1926 as an auxiliary organ of the League of Nations. Following the demise of the League, the Institute was re-established in 1940 on the basis of a multilateral treaty, the UNIDROIT Statute. Membership in the Institute is restricted to States acceding to the Statute, which is available from www.unidroit.org/english/presentation/statute.pdf.

According to the Statute, the purpose of the Institute is to study needs and methods for modernizing, harmonizing and coordinating private and, in particular, commercial law between States and groups of States and to formulate uniform law instruments, principles and rules to achieve those objectives.

In order to accomplish those goals, the Institute undertakes a variety of activities, both legislative (development and adoption of international conventions, model laws, legal and contractual guides, principles or other instruments in the field of private and international commercial law) and non-legislative (maintenance of a library, scholarship and internship programmes, legal cooperation activities).

2. Membership

The Institute's member States come from the five continents and represent a variety of legal, economic and political systems. Today, the following 63 States are members of the Institute: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Paraguay, Poland, Portugal, Republic of Korea, Romania, Russian Federation, San Marino, Saudi Arabia, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela (Bolivarian Republic of).

The Institute is financed by annual contributions from its member States (extrabudgetary contributions may be made to fund specific projects or activities).

3. Institutions and structure

The Institute has a three-tiered structure composed of a Secretariat, a Governing Council and a General Assembly.

The Secretariat is the executive organ of the Institute and is responsible for carrying out its programme of work from day to day. It is headed by a Secretary-General, who is appointed by the Governing Council on the nomination of the President of the Institute. The Secretary-General is assisted by a team of international civil servants and supporting staff.

The Governing Council supervises all policy aspects related to the means by which the Institute's statutory objectives are to be attained and, in particular, the way in which the Secretariat carries out the programme of work drawn up by the Council. It is composed of a President, who is appointed by the Government of Italy, and 25 elected members, mostly eminent judges, practitioners, academics and civil servants.

The General Assembly is the ultimate decision-making organ of the Institute: it votes on the Institute's budget each year; it approves the programme of work every three years; and it elects the Governing Council every five years. It is composed of one representative from each member State.

4. Advantages for the Institute of being granted observer status in the General Assembly

The various activities of the Institute advance in a practical manner many of the objectives and purposes of the United Nations, particularly as regards progressive codification and harmonization in the field of private law. The strong links that exist between the United Nations and the Institute date back to the origins of the United Nations, which for many years entrusted the Institute with the preparation of studies in various areas of private law (international transport, alimony obligations, protection of cultural property). The general framework for cooperation between the two organizations was set out, in 1959, in an exchange of letters constituting an arrangement.[1]

Since the establishment of the United Nations Commission on International Trade Law, this cooperation has taken place mainly within the framework of the activities of the Commission, in part because most lines of work developed by the Institute have been concerned with the preparation of uniform law instruments dealing with international commercial transactions. By and large, this cooperation has been successful and adequate coordination has also been achieved, mainly thanks to the collegial atmosphere of goodwill that exists between the two secretariats concerned.

However, the mandate of the Institute in the area of private law also encompasses topics that fall outside the core mandate of the Commission, such as the work done in the area of protection of cultural property through the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, of 1995, and the model legislative provisions on State ownership of undiscovered cultural objects, of 2011, drafted jointly by the Institute and the United Nations Educational, Scientific and Cultural Organization.

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[1] United Nations, *Treaty Series*, vol. 613, No. 631.

It would be beneficial to both organizations if the Institute were granted appropriate standing to be able to follow deliberations in all the bodies of the United Nations, not only the Commission, particularly since a number of them from time to time consider private law matters not directly related to the rules that govern international trade.

5. Advantages for the United Nations of granting observer status to the International Institute for the Unification of Private Law

Granting the Institute observer status in the General Assembly would help develop further the natural links between the Institute and the United Nations for greater mutual benefits. From the perspective of the United Nations, granting observer status to the Institute would also allow the Assembly to draw on the expertise of the Institute whenever the Assembly or its subsidiary organs consider matters related to private law that do not fall under their area of expertise.

Annex II

Draft resolution

Observer status for the International Institute for the Unification of Private Law in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the International Institute for the Unification of Private Law,

1. *Decides* to invite the International Institute for the Unification of Private Law to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.